

TOQUERVILLE CITY COUNCIL MINUTES

6:00pm Work Meeting, 7:00pm Regular Meeting

Thursday March 12, 2015

Held at 212 N. Toquerville Blvd, Toquerville Utah

ATTENDING: Mayor M. Darrin LeFevre, Council (CC) members: Paul Heideman, Brad Langston, Mark Fahrenkamp, and Ty Bringhurst (who arrived at 6:30 pm); Staff and Zoning Administer Mike Vercimak, Recorder Renee Garner, Treasurer June Jeffery, Public Works/ Maintenance Lance Gubler, City Surveyor Steve Woolsey, and City Engineer Karl Rasmussen (who arrived at 6:45), Others: Manning Butterworth, Kathleen Peterson of Dixie Waste, Attorney for Southwest Energy: Roger Sanders, Alex Chamberlain, Karen Straw, and Wayne Olsen.

6:13 PM – MAYOR M. DARRIN LEFEVRE CONVENED THE WORK MEETING: Mayor informed us that Daren Cottam, Attorney Heath Snow, and Planning Commission (PC) Chair Keen Ellsworth would not be attending.

1. City Surveyor Steve Woolsey report on the annexation plat delay. Mayor reminded us that the annexation was passed last month subject to the surveyor's review. In order for the annexation to be finalized, the city surveyor must approve it and then it would go to the Lieutenant Governor's office. Steve explained the concept of "complete and accurate boundary" information, and how that could be interpreted in different ways. He asked for council's interpretation so he would know how to move forward on the plat map.

Steve told us that from his perspective, he didn't think the survey done by Northern Engineering for Southwest Energy was complete. Steve gave his background working for Cedar City remarking on standards set by their engineering department. He thought that doing a complete and accurate survey required boots on the ground checking every marker and measurement. Steve showed us state code regarding annexation: 10-2-425-1-a-ii, 67-1a-6.5-1-b, 17-23-20-1-b-i, and 17-23-20-4-d-i. He remarked that state code required some interpretation. He said the method Northern Engineering used to create the record of survey was to gather existing records created by other surveys done in the past. Using this method they were able to describe by meets and bounds. The county surveyor could use that and follow it. However their original numbers did not meet up. Steve said they have now fixed the math and it is within one inch of meeting up, but it might be wrong. He remarked that some of the records used to create the survey were done by the General Land Office (GLO). The GLO was the predecessor of the Bureau of Land Management (BLM). Records may have been taken from documents as old as 1860. He stated he would like to create his own record and physically search for the boundaries. In this way the city would be on solid ground going forward knowing exactly what was annexed.

Mayor asked Council if the city should require Southwest Energy to pay for this survey. Because of rough terrain, the cost was estimated at \$20,000.00. Mayor conveyed Attorney Snow's opinion that the survey constituted a complete record for filing but not a complete acreage. Heath Snow had opined that he was comfortable defending a boundary dispute with the current submittal by Northern Engineering. Mayor preferred to have accuracy even though it would take two or three more weeks to locate points.

Paul remarked that a wind farm would not require set boundaries. Mark thought we should let it go forward, but set tighter requirements by ordinance for future annexation. Steve remarked that the first survey had been done in August and Northern Engineering had been given time to do the survey more accurately. Attorney Roger Sanders representing Southwest remarked that Northern Engineering had certified the survey. He agreed with Heath's opinion that the boundaries were defensible in a court of law.

Council gave consensus that Surveyor Steve Woolsey could approve the plat and allow the annexation to go forward.

PRESENTATION: Kathleen Peterson of Dixie Waste spoke regarding proposal for waste recycling. Washington County Solid Waste Department is in negotiations with Dixie Waste for this service. Kathleen outlined the benefits: extend the life of the landfill, collections every two weeks, all would receive a third can for recyclables such as aluminum, tin, plastic, paper, cardboard, but not glass, collected items would go to a bailing station and then be trucked to businesses offering the best rates for materials. She remarked that prices are based on estimates of projected costs. She hoped to see cities receive some return eventually.

Mike Vercimak argued that the plan would force people to pay for recycling but not force them to participate. Kathleen agreed that some areas of the country were enforcing participation. Mike didn't think that would be popular here.

The three options are:

Option 1: Residents are given a onetime opt-out period in the range of 60-90 days to declare themselves out of the recycling program. After that, residents who have opted out will stay out as long as they remain at the same address unless they choose to join the program. If they move within the same city or within the county they will then participate in the program at their new location. All new services started after the opt-out period will also be required to participate in the recycling program.

Option 2: Residents are given a onetime opt-out period in the range of 60-90 days to declare themselves out of the program. After that, residents who have opted out will stay out as long as they remain at the same address unless they choose to join the program. At the time a resident establishes new services within the city they will have the option to participate in the program. Once in they won't be able to opt-out and if they choose not to participate they will be out as long as they remain at the same address unless they choose to join the program. (Cities may choose an option that any new residents moving into the city from either outside the county or outside the city will not have the option. Only current residents of the city or county will have the opt-out choice).

Option 3: Residents are given a onetime opt-out period in the range of 60-90 days to declare themselves out of the recycling program. After this period has expired, residents who have opted out will stay out as long as they remain at that same address unless they choose to join the program. Every year residents will be given an opportunity to once again opt-out of the program during a specific time period. (City may also include the ability to opt-out at time of establishing services with the city).

Brad expressed his concern that option 3 would be too much work for the small city staff. Mark asked if the cost increases would be approved by the county without the city's input. Paul opined that a new landfill would cost more. Brad thought the program would likely cost about \$4.00 per month per household. Council agreed that this would require a public hearing for council decision.

3. Staff Report: Administrator Mike Vercimak mentioned Planning Commission (PC), was still reviewing the short term home rental concept. He said PC hadn't seen anything from Attorney Snow for the ordinance that would regulate conditions for short term rentals. Chair Keen Ellsworth was working on making the prohibition language more clear under current code. He thought that should be done before addressing conditions for approval with regulation. Keen had opined at PC that the prohibition was inferred due to language regulating bed and breakfasts (B&B), and that short-term rentals are not mentioned at all in current code, which automatically is interpreted as prohibitive in past case law.

Mayor asked all others to report during the Council Report section of the regular meeting. He closed the work meeting.

7:10 PM MAYOR M. DARRIN LEFEVRE CONVENED THE REGULAR MEETING: 1. Pledge was led by Council Mark Fahrenkamp, invocation given by Council Ty Bringham. 2. Mayor asked for statements of belief by the public, none given. 3. Mayor called on Council for disclosures or declarations of conflict, Mark stated conflict on agenda item C-1, B&B Conditional Use permit.

A. CONSENT AGENDA: 1. and 2. Mayor LeFevre reviewed Consent Agenda and led discussion including the CC meeting minutes of February 12, 2015, and the February Expenditures. Mayor called for a Motion.

3. **Motion** by Mark Fahrenkamp to approve the Consent Agenda including the minutes for February 12, 2015, and the February Expenditures was second by Brad Langston. Mayor asked for comment. None given, he asked for roll call: Paul Heideman, Brad Langston, Ty Bringham, and Mark Fahrenkamp, all Ayes. Consent Agenda approved.

B. PUBLIC FORUM: Mayor asked for any further remarks on any subject by the public.

1. Wayne Olsen asked council for clarification if vacation rentals are illegal right now or not. Mike opined that it's a matter of legal interpretation. He stated that the basis of the law is that if an item is not addressed in code as permitted or conditional use, then it is not permitted. June continued that no municipality could contemplate every possible idea for land use in its code. That's why case law sides with prohibited unless stated. Ty advised Wayne to be patient but felt that council should push this forward, yea or nay, to conclusion. Mike stated that Hurricane City had taken seven months to conclude its position. La Verkin is still working on it. Mark felt that PC was moving forward in a measured and responsible manner by clarifying prohibition before contemplating permission and regulation. Mike reminded us that the Fire District had weighed in on this issue due to the number of people often allowed in these rentals and that fire code had not addressed rentals regarding fire prevention measures the way that it had with B&Bs. This created a potential fire danger that needs to be considered. Mayor concluded that he would insist Heath have his draft of the short term rental conditional use code to PC by next Wednesday. Alex Chamberlain mentioned that PC wanted to look at allowing a manager as a city resident to be responsible for these rentals if a current resident was not available. Paul wondered if council could meet again this month after PC in order to pass this. That suggestion was not continued to conclusion.

2. Manning Butterworth spoke against a mandatory recycling program that forced participation. He remarked that he was an avid recycler, that current recycling bins (binnies), were always full, that the binnies were often full for days before they were picked up, and that county already charge the cities for participation in that recycling program. He felt they could pick them up more often at less cost than this new curbside program. He mentioned that curbside would not do glass and would not be a complete solution. He strongly opposed any program that would force participation, whether incrementally or otherwise.

3. Alex Chamberlain felt that, though recycling was a good idea, he would not like to see it forced in a heavy handed manner. Still he thought it was worth discussion and if reasonable he would like to see curbside recycling made available. He had enjoyed the convenience of that service in Hurricane City and voiced his support for the program.

C. NEW BUSINESS:

1. Item: possible motion regarding Application for Conditional Use permit of a B&B business, "Phoenix House Bed and Breakfast": Mark & Toni Fahrenkamp at 325 W. Old Church Rd, Parcel #T-ACM-1-A. Mike reviewed the conditions of recommendation for approval from PC. Mayor called for a motion.

Motion was by Paul Heideman to approve the Conditional Use permits of a bed and breakfast business "Phoenix House Bed and Breakfast" for Mark & Toni Fahrenkamp at 325 W. Old Church Rd. Second was by Brad Langston. Mayor asked for comments. None given, Mayor called for vote: Ty Bringham, Paul Heideman, and Brad Langston, all Ayes. Motion to approve the Conditional Use permit of a B&B business, "Phoenix House Bed and Breakfast" for Mark & Toni Fahrenkamp at 325 W. Old Church Rd passed, Mark Fahrenkamp abstained from the vote.

The conditions are as follows: 1. Applicant will secure all required federal, state, county, and local licenses required and pay all associated fees and taxes including the Toquerville bed tax, 2. Applicant will limit the number of occupants in the residence to no more than ten (10) total when being utilized as a "bed and breakfast", 3. Applicant will not expand, enlarge or otherwise change the parameters of this permit without express written consent of the Toquerville City Council, 4. Applicant will provide adequate off-street parking so as not to create undue congestion on the street, 5. This permit shall have an annual review by the Toquerville Planning Commission, (a current business license each year is required for continuation of a Conditional Use permit).

2. Item: possible motion regarding expenditure of funds to hire Bill Jackson in assisting in the development of a Parks Master Plan. Ty reviewed the service agreement provided by Bill and remarked that he felt it was doable and worth the cost at \$20,000.00. Karl mentioned that Bill is a licensed landscape architect and thought that he would be an asset. Karl also mentioned that he'd worked with Bill on other projects. He advised that the parks master plan would need to be coordinated with the park committee. Mayor remarked that his cost was more than the parks capital facilities plan budget. Mark answered that Bill would be able to help us work toward grant money for parks and trails. He thought the cost was reasonable. Ty opined that Karl alone would not be able to give us the kind of detail we would get from Bill. Mayor called for a motion.

Motion was by Mark Fahrenkamp to approve expenditure of funds not to exceed \$20,000.00 hiring Bill Jackson to assist in the development of a Parks Master Plan. Second was by Brad Langston. Mayor asked for comments. None given, Mayor called for roll call: Brad Langston, Ty Bringham, and Mark Fahrenkamp, were all Ayes, Paul Heideman; Nay. Motion to approve expenditure of funds up to \$20,000.00 hiring Bill Jackson to assist in the development of a Parks Master Plan passed.

3. Item: possible motion regarding Resolution #RES.2015.02 amending the Personnel Policies and Procedures manual for employee benefits. June Jeffery had spent time writing this resolution removing any and all conflicts and discrepancies. After receiving more information from insurance broker David Patrick she had added clarifying language, such as, "benefits stipends". June took out all actual numbers and used a percent of the overall employee budget as agreed by council. She amended and removed some remarks about the COBRA program that will not be required by state law until the city has more than 20 employees. She opined that the city could have a full time human resource employee to run the benefits program by that time. She also remarked that she needed to add "\$150.00 per month" to the resolution language. Ty asked if Heath had reviewed it. June remarked that Council could pass if pending Heath's review. Mayor reminded us that Council had approved the payment last month and three employees signed up for the affordable care assuming the city would assist according to their motion. Paul recommended the payment be retroactive to first of February. June reminded Council that the fiscal budget for each department would need to be reviewed and asked them to come individually to discuss their budgets so that by the April City Council meeting the budget could be reviewed as a whole. Mayor called for a motion.

Motion was made by Paul Heideman to approve Resolution #RES.2015.02 amending the Personnel Policies and Procedures manual for benefits with changes specified, pending review by Attorney Heath Snow and making the stipends benefits to employees retroactive to February 1st. Second was made by Ty Bringham. Mayor asked for comments. Hearing none, called for a roll call: Mark Fahrenkamp, Ty Bringham, Brad Langston, and Paul Heideman, all Ayes. Motion to approve Resolution #RES.2015.02 amending the Personnel Policies and Procedures manual stipends benefits with stipulations stated carried unanimously.

4. Item: possible motion regarding city involvement in the county recycling program. Brad Langston asked for this to be tabled until county had finalized their plans. Mayor called for a motion.

Motion was by Brad Langston to table a vote on the county recycling program and schedule a public hearing at a future date. Second was by Ty Bringham. Mayor asked for comments. Hearing none, called for a vote: Mark Fahrenkamp, Ty Bringham, Paul Heideman, and Brad Langston, all Ayes. Motion to table vote on county recycling program carried unanimously.

PRESENTATION: Water, Parks, Trails, and Roads Capital Facilities Plan: City Engineer Karl Rasmussen gave council his latest figures for amending impact fees. He stated that traffic at Cholla X SR-17 was at approximately 656 per day. He gave us traffic estimates for Interstate Highway I-15 at 20,000, Hurricane's State Street at 23,000, SR-17 north end at 3000, and south end at 6000. Total figures show we have 2000 passer-bys and 7000 cars in local traffic per day. Karl showed that using existing levels of service and projecting growth we would need our impact for streets at \$2,367.81.

Regarding parks and trails, impacts were figured on three parks at 4 acres per 1000 residents. To improve our parks and keep service at existing levels for future growth we would need to raise parks impacts to \$2,606.72, and trails to \$1,745.22. He said trails cost would not include unimproved trails that do not require asphalt. It does include 23 miles of improved trails mostly following roads.

Water figured at \$2,961.79, but cost credit due to our recent improvements allowed us to lower that impact fee to \$1,731.34. Ty remarked that the Sewer District impacts were about \$2,976.00 and the Water District impacts were approximately \$6,408.00.

Our current impacts, Water: \$1,533.00, Streets: \$1,935.00, and Parks: \$829.00, add up to \$4,297.00. The proposed impacts would total \$8,451.09. This would double our current rates, but would still be below rates of neighboring cities. Mayor reminded us that improvements of curb, gutter, and sidewalk would also be added to building costs due to recent ordinance passage.

Karl mentioned that subdivisions outside of the current water system would need to do a water analysis showing that they will have the correct pressure. Mayor asked why the increase was so high. Karl both answered that the last impact study was done more than ten or fifteen years ago. Ty added that much of our park improvements were done by volunteer work and donations which the city cannot plan on receiving for future development.

Karl asked Council to review the information thoroughly and have a public hearing, discussion and motion at the next City Council. He invited members to call him with questions. Mayor mentioned that Heath will need to study it and he asked Mike to also review it and be prepared to offer comment at that meeting. Mike remarked that Karl had to follow a formula in figuring impacts suggested in this study, but Council could adjust fees as it sees fit.

D. REQUEST FOR AGENDA ITEMS: April, 2015, Council Meeting. 1) Review of short term rental ordinances, 2) Public Hearing and action item to discuss city involvement in the county recycling program, 3) Public hearing and action item on Water, Streets, Parks, and Trails Capital Facilities Plan and impact fees. 4) Action item on Dog Pound service agreement with La Verkin City.

Mayor called for reports that had been postponed from Work meeting agenda using those numbers:

3. Staff Report: Administrator Mike Vercimak reiterated that the Fire District had expressed concern in allowing short term rentals without regulations for fire protection. Mark suggested that we contact Chief Kuhlman for further research and comment.

5. Discussion to combine Tree Board with the Beautification Committee: Paul Heideman said that he and Brad are still discussing this.

6. Discussion of Administrative Code Enforcement (ACE), Issues (Staff member to take pictures): Mayor LeFevre asked Renee to speak on this issue. Renee explained that as ACE administrator, she takes nuisance and code violation complaints from citizens and needs to be able to have time-stamped pictures taken to show if a resident is not complying with city code. These photos bear the weight of the city's decision for action. We had put this responsibility on Lance and that wasn't fair. Renee asked if Council would like to hire someone to take these pictures, or if someone else on staff could be designated to this position as ACE officer.

Council agreed to have Tony Humphries do this job for now. She remarked that a deputy could accompany Tony on these assignments. Renee also mentioned that pictures may be taken from the street as well as from the property of the complainant if there was a fear of bodily harm. She explained that she represents the city's position and makes decisions for action based on these photos. At some point, if the city's decision is challenged, ACE Judge Keen Ellsworth would decide who is in the right partially based on these photos.

Renee also told Council that she was preparing to begin licensing of dogs and that the initial cost would be around \$50.00 for 100 tags and S rings. She had begun talks with La Verkin to discuss contract for dog pound services. She would get the numbers together and try to have the proposal ready for Council by next month.

8. Water/Maintenance Update: Lance Gubler reported on:

- a. Westfield tank need the bottom replaced at cost of \$33,000.00. Council said to wait until Fall to drain, repair the bottom and paint.
- b. UDOT grant for a sidewalk at Spring Dr X Toquer Blvd bids from contractors came back with lowest responsible bid at \$8,200.00 from Tony Jones. Earth Builders Inc bid at \$10,000.00. The job would include us doing the sidewalk work. Discussion of whether Ron Horrock would honor his verbal agreement to put in a retaining wall protecting that home from flooding now that he's selling the home. Council thought that drainage work planned for Cotton Gin would solve the flooding issue for that property.
- c. Figured sidewalk repair along Toquerville Blvd (SR-17) would require 25 yards of concrete. Mayor mentioned that Heath had advised the city to plan for sidewalk repair in next year's budget. Brad worried that the public would argue against sidewalk repair. Wayne Olsen said he thought the city had repaired that sidewalk 12 years ago and had cut the roots to do it. He said the work hadn't damaged the trees then, perhaps it wouldn't damage them now. Council agreed that Daren should budget that for next year.
- d. Water District is lining the irrigation ponds. They won't be done until next week.

E. CITY DEPARTMENTS AND COUNCIL REPORT TO THE CITY:

1. Culture & Recreation/ Sewer District/ Beautification Committee: a) Paul Heideman mentioned Sewer District job opening for superintendent. b) The pageant is scheduled for the 1st week of May. They settled on the Hurricane Community Center Theater for that.
2. Streets/ MPO/ Risk Management/ Confluence Park/ Mosquito Abatement: Daren Cottam was absent.
3. Economic Development/ Emergency Preparedness/ Water Dept. Asst./ Safety Committee: Ty Bringhurst reported that Lorin Lowe submitted alternate routes for the Northern corridor of the by-pass road. Mayor suggested a conference call to resolve the differences.
4. City Hall Maintenance/ Cemetery/ Solid Waste/ Fire District/Tree Board: a) Brad Langston said the recycling program will have more solid numbers by the next Council meeting. b) Tree Board will have an open house on March 26th to educate citizens on tree care. c) Mayor attended the Fire District meeting and reported that Hurricane City wanted to join and thought they could do it without a ballot, but their legal department didn't agree. The district area is growing and needs more staff to service the communities. We have enough equipment but not enough people. The Fire District would like to raise the levy which would require a vote. Lance mentioned that they will be placing a brush truck and an ambulance in our city office sheds next week. Discussion of volunteer staffing for fire trucks led to concern for lack of interest due to low pay.
5. Subdivisions/ Water Dept./ Park Maintenance: a) Mark Fahrenkamp stated that playground equipment needed repair which cost about \$1,000.00. b) He advised to have staff members train as arborists and raise our standards for having that work done.
6. Attorney's Report: Heath Snow was absent.
7. Mayor M. Darrin LeFevre called for an executive session.

F. EXECUTIVE SESSION: for Personnel Issues.

Mayor asked for a motion to go into Executive Session.

Motion by Ty Bringhurst to go into Executive Session for the purpose of discussing personnel concerns was second by Brad Langston. Mayor asked for a vote: Paul Heideman, Brad Langston, Daren Cottam, and Mark Fahrenkamp, All agreed.

Mayor stated motion passed and public was excused.

Attending: Mayor M. Darrin LeFevre, Council Members: Mark Fahrenkamp, Brad Langston, Paul Heideman, Ty Bringhurst and City Recorder: Renee Garner.

Mayor called for a motion to end Executive Session.

Motion by Brad Langston to leave the Executive Session was second by Paul Heideman. Mayor asked for a vote: Paul Heideman, Brad Langston, Ty Bringhurst, and Mark Fahrenkamp, all agreed. Mayor stated the motion to leave the Executive Session passed unanimously.

ADJOURNMENT: Mayor called for a Motion to Adjourn. **Motion** by Brad Langston to adjourn the public meeting was second by Ty Bringhurst. Mayor asked for a vote: Mark Fahrenkamp, Ty Bringhurst, Paul Heideman, and Brad Langston, all Ayes. Mayor stated the motion passed unanimously. Mayor adjourned the Toquerville City Council Meeting.

Minutes of the 3-12-15 Toquerville City Council Meeting will be presented for review and approval at the April, 2015 City Council Mtg.

Approved: _____

M. Darrin LeFevre, Mayor

Date: _____

4-9-2015

Attested: _____

Renee S. Garner, City Recorder

